

House File 2221 - Reprinted

HOUSE FILE 2221
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 522)

(As Amended and Passed by the House February 23, 2022)

A BILL FOR

1 An Act relating to the admissibility of evidence in a
2 prosecution for physical abuse or a sexual offense upon or
3 against a child, person with an intellectual disability,
4 person with a cognitive impairment, or person with a
5 developmental disability.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **622.31A Admissibility of evidence**
2 **in certain physical abuse and sexual offense cases.**

3 1. As used in this section:

4 *a. "Child"* means a person under fourteen years of age.

5 *b. "Cognitive impairment"* means a deficiency in a person's
6 short-term or long-term memory; orientation as to person,
7 place, and time; deductive or abstract reasoning; or judgment
8 as it relates to safety awareness.

9 *c. "Developmental disability"* means the same as defined
10 under the federal Developmental Disabilities Assistance and
11 Bill of Rights Act of 2000, Pub. L. No. 106-402, as codified in
12 42 U.S.C. §15002(8).

13 *d. "Intellectual disability"* means a disability of
14 children and adults who as a result of inadequately developed
15 intelligence have a significant impairment in ability to learn
16 or to adapt to the demands of society.

17 2. In a prosecution for physical abuse or a sexual offense
18 including but not limited to a sexual offense in violation of
19 section 709.2, 709.3, 709.4, 709.11, 709.12, 709.14, 709.15,
20 709.16, or 709.23, upon or against a child, a person with an
21 intellectual disability, person with a cognitive impairment, or
22 person with a developmental disability, the following evidence
23 shall be admitted as an exception to the hearsay rule if all of
24 the requirements in subsection 3 apply:

25 *a.* Testimony by the victim concerning an out-of-court
26 statement, whether consistent or inconsistent, made by the
27 victim to another person that is an initial disclosure of the
28 offense.

29 *b.* Testimony by another concerning an out-of-court
30 statement, whether consistent or inconsistent, made by the
31 victim that is an initial disclosure of an offense charged for
32 physical abuse or a sexual offense against the victim.

33 3. The testimony described in subsection 2 shall be admitted
34 into evidence at trial as an exception to the hearsay rule if
35 all of the following apply:

1 *a.* The party intending to offer the statement does all of
2 the following:

3 (1) Notifies the adverse party of the intent to offer the
4 statement.

5 (2) Provides the adverse party with the name of the witness
6 through whom the statement will be offered.

7 (3) Provides the adverse party with a written summary of the
8 statement to be offered.

9 *b.* The court finds, in a hearing conducted outside the
10 presence of the jury, that the timing of the statement, the
11 content of the statement, and the circumstances surrounding
12 the making of the statement provide sufficient safeguards of
13 reliability.

14 *c.* The child, person with an intellectual disability, person
15 with a cognitive impairment, or a person with a developmental
16 disability testifies at the trial.

17 4. If a statement is admitted pursuant to this section,
18 the court shall instruct the jury that it is for the jury
19 to determine the weight and credibility to be given to the
20 statement, and in making that determination, the jury shall
21 consider the age and maturity of the child or the disability
22 of the person with an intellectual disability, person with
23 a cognitive impairment, or person with a developmental
24 disability; the nature of the statement; the circumstances
25 under which the statement was made, and any other relevant
26 factors.

27 5. This section shall not prevent the admission of any
28 evidence based upon forfeiture by wrongdoing.